

Te Ōniao – Te Mauri o te Wai



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‘Rights and interests’

Māori had rights and interests in their water bodies for which the closest English equivalent in 1840 was ownership. Those rights were then confirmed, guaranteed, and protected by the Treaty of Waitangi, save to the extent that the Treaty bargain provided for some sharing of the waters with incoming settlers... The nature and extent of the proprietary right was the exclusive right of hapu and iwi to control access to and use of the water while it was in their rohe.

Waitangi Tribunal, 2012



Māori had in place, prior to European contact, a system of 'Māori laws which, under the superintendence of the kaitiaki, defined the ethical responsibilities of the user of natural resources to preserve the resources for the generations to come'.

Taihākurei Durie, 'Law, Responsibility and Māori Proprietary Interests in Water'.

“The future of the country lay in sheep and cattle, not eel and koura”

Ben White, Historian



'...we own this river, we have always owned it, we have never really surrendered ownership that authorities do as they please'.

Irirangi Tiakiawa

Report of the Waitangi Tribunal on The Kaituna River Claim, 1984, Wai 4

English common law

Embrey v Owen (1851) 6 Exch 353



Treaty of Waitangi Freshwater Settlements

- Ownership of beds and surrounding lands
- Co-management and co-governance
 - Inclusion in decision-making
 - Relationship agreements
 - Maturanga Māori indicators of health and well-being
 - Restoration funding
- Distinct legal entity



New Zealand Māori Council

Claim to the Waitangi Tribunal

What rights and interests (if any) in water and geothermal resources were guaranteed and protected by the Treaty of Waitangi?

Interim Report on the National Freshwater and Geothermal Resources Claim (Wai 2358)

NZMC – Governance of Water

Proposes a framework for a law which

- recognises the Māori proprietary interest in water, the general public interest in water and which in the interests of future generations, promotes responsible use.
- Proposes an independent body to allocate water resources for the benefit of all.
- Involves a value proposition with money used to restore and rehabilitate waterways.

The Iwi Leaders Group

1. Recognition

- Rights and interests in and around water
- *Te Hapori o Maungatautari case study*

2. Decision-making

- Structural - representation
- Full participation

3. Water Quality

- Mechanisms to recognise Te Mana o te Wai

4. Economic

- Access and allocation



Te Tiriti o Waitangi

Remains the starting point for modern New Zealand. Principles central to modern democratic processes that underpin the promise of Te Tiriti which looked forward to a fair and united nation:

- Full participation
- Mutual respect, and
- An equitable share in the country's wealth.

Sir Mason Durie

Tēnā koutou katoa

